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GROUP 3600 PATENT
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at least one connect server communicating with the user terminal, the connect server receiving requests for content generated from the user terminal, the connect server accessing a database of publicly vended content to fulfill the requests; and

at least one billing module accessible to the connect server for generating accounting data based on at least one of: each request for content received, each piece of content delivered to the user terminal, a content subscription, a type of user terminal, and a number of IP packets delivered to the user terminal.

Cancel Claims 6, 7, 9, and 11 and amend Claim 8 to comport with these amendments as follows:

8. (amended) The computer system of Claim 1, wherein the subscription is established at least in part by a user profile.

Please amend Claim 12 as follows:

12. (amended) A method for vending content, comprising the acts of:

- rendering the content in a digitized format;
- making the content available on a computer network;
- establishing at least one network path between the network and a user terminal, at least a portion of the path being a private wireless path;
- sending the content to the user terminal via the network path; and
- generating accounting data representative of the provision of content to the user terminal;

wherein the accounting data is based on at least one of:

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a request for a content piece from the user terminal;
a content subscription;
a number of packets delivered to the user terminal; and
a type of the user terminal.

Cancel Claims 18-21, 23, 25, 27, and ~~28~~, and amend Claim 24 as follows:

24. (amended) A computer program device comprising:

a computer program storage device readable by a digital processing apparatus; and

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a program on the program storage device and including instructions executable by the digital processing apparatus, the program comprising:

computer readable code means for billing a user for the provision of digitized packetized audio or video content from the Internet via a wireless network path to a user terminal associated with the user, including at least one of:

means for receiving a request for a piece of content from the user, the means for billing generating accounting data based at least in part on the request;

means for generating accounting data based at least in part on a number of packets sent to the user via the path;

means for generating accounting data based at least in part on a content subscription for content; and

means for generating accounting data based at least in part on a type of user terminal.

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Reconsideration of the above-captioned application is respectfully requested. All previously pending claims (1-35) have been rejected as being anticipated by Van Horne et al. '601 or obvious over Van Horne et al. in view of Roy, III et al., used as a teaching of SDMA.

To overcome the rejections, the independent claims (1, 12, and 24) have been amended to specify that accounting data is generated for billing the user based on one or more of each request for content received, a content subscription, a type of user terminal, and a number of IP packets delivered to the user terminal as disclosed on, e.g. page 4, second full paragraph. Claims 6, 7, 9, 11, 18-21, 23, 25, 27, and 28 have been canceled, leaving Claims 1-5, 8, 10, 12-17, 22, 24, and 29-35 pending.

Rejections Under 35 U.S.C. §102

Claims 1-12, 24-26, 28, 29, and 33-35 have been rejected under 35 U.S.C. §102(e) as being anticipated by Van Horne et al. '601, a reference directed to billing travelers only based on the amount of time they are connected to the Internet in, e.g., a hotel room, regardless of content provision considerations (see Abstract, indicating that billing is based on usage time; col. 17, lines 9-12, disclosing that billing charges are determined at disconnect; col. 20, line 30, disclosing that total activity time is used for billing). Nowhere does Van Horne et al. suggest generating accounting data based on anything other than total time connected. To the extent that Van Horne et al. has "billing options", they are actually payment options for the user to decide how the user wishes to pay, col. 14, lines 19-21. A user of Van Horne et al. will thus be billed even if no content is ever actually provided.

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In contrast, the invention recited in Claims 1, 12, and 24 is directed to billing users for actual content that is provided as might be embodied in, e.g., a user request for content, content delivery, packet delivery, and content subscription. Since Van Horne et al. does not even consider this aspect, but rather is directed to the different problem of billing travelers only for total time connected to the Internet, the claims are patentably distinct over Van Horne et al.

It is noted that although Van Horne et al. fails to teach or suggest the above-mentioned features, certain dependent claims reciting these features have been rejected under this section. For instance, it is alleged that Van Horne et al. in essence "provides subscription" because it enables a user to log onto its system. But the amended independent claims do not merely state "subscription" but rather specify "content subscription", a concept never touched on by Van Horne et al. The only "subscription" provided by Van Horne et al., to the extent that one skilled in the art would even consider Van Horne et al. as providing a "subscription" (see, e.g., MPEP §2111.01, requiring that claims must be construed as the skilled artisan would construe them), is a content-independent subscription, depending solely, as it does, on the length of time connected.

It has been moreover alleged that generating accounting data based on a type of user terminal and a number of packets, formerly recited in Claims 8 and 9, has been taught by Van Horne et al. without ever particularly mentioning where these features are found in Van Horne et al. In fact, Van Horne et al. never mentions anything about the *type* of user terminal being recorded, only billing information related to the user such as credit card number, room number, etc. With respect to generating accounting data based on a type of user terminal, it has been alleged that this is inherent in Van Horne et al. To support an inherency argument, however, the reference must *necessarily* function in the allegedly inherent way, MPEP §2112,

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which, as stated above, Van Horne et al. does not. And, apart from defining what "TCP/IP" means in the background, Van Horne et al. never mentions the word "packet", much less does it teach or suggest using packet provision for generating accounting data. For these further reasons, the claims are patentably distinct over Van Horne et al.

Rejections Under 35 U.S.C. §103

Claims 13-23, 27, and 30-32 have been rejected under 35 U.S.C. §103 as being unpatentable over Van Horne et al. in view of Roy, III et al., used as a teaching of SDMA. The claims rejected under this section are dependent claims and are thus patentable for the reasons above.

Further, two additional comments are germane. First, there is no stated *prior art* motivation to combine the references as proposed, as is otherwise required by MPEP §2143.01 (a statement that modifications of the prior art to meet the claimed invention would have been "within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason suggested by the prior art and not by the Examiner to combine the teachings of the references, MPEP §2143.01, first, second, and seventh paragraphs.) The proffered motivation to use SDMA with Van Horne et al. - that it can improve the capacity and quality of communication between the users and base station - is without prior art support from Van Horne et al. Indeed, considering that Van Horne et al. envisions the use of a high speed wireless LAN in a hotel, there would be no plainly evident need to employ SDMA in Van Horne et al. Moreover, the connect server of Roy, III et al. cannot apparently provide the content as required of the claimed server, so that combining

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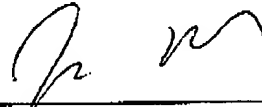
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Roy, III et al. with Van Horne et al. would entail unknown (and to date ignored) modifications, the scope of which can only be guessed at.

Second, all the examiner has managed to say about the claimed transmission rate of Claims 30-32 is that "at this rate everything will move at high speed". Correct! But so what? Without a prior art suggestion to modify Van Horne et al. to meet the claims, the examiner's observation is merely academic.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

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